

**BATTLE CREEK CITY PLANNING COMMISSION  
MEETING MINUTES  
Wednesday, November 17, 2010**

**1. Call to Order:**

Chairman Preston Hicks, called the meeting to order at 4:00 p.m.

**2. Attendance:**

**Members Present:**

Steve Barker	John Godfrey	Chip Spranger
Susan Baldwin (Mayor)	Preston Hicks	John Stetler
Jan Frantz	William Morris	

**Members Excused:** None

**Staff Present:** Christine Hilton, Planning Supervisor  
Susan Bedsole, Director Community Services  
Eileen Wicklund, City Attorney  
Jill Steele, Deputy City Attorney  
Glenn Perian, Senior Planner  
Leona Parrish, Administrative Assistant

**3. Additions or Deletions to the Agenda:** None

**4. Approval of Minutes:** Meeting Minutes of October 27, 2010.

**A MOTION WAS MADE BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER SPRANGER TO APPROVE THE PLANNING COMMISSION MEETING MINUTES FOR OCTOBER 27, 2010 AS SUBMITTED.**

**VOTE ON MOTION: ALL IN FAVOR; NONE OPPOSED; MOTION CARRIED.**

**5. Correspondence:** Received a letter of support from NPC#3 for item #S-05-10 (Neighborhood Park); received (2) letters of support and (1) in opposition for #S-6-10 (Adult Foster Care Home); and a document from Mr. John Stetler regarding item #7 Old Business (Discussion regarding residential zoning).

**6. Public Hearing & Deliberations/Recommendations:**

**A. Special Use Permit (#S-06-10):** Petition from Mr. Roger & Mrs. Shirley Knapp. 1804 Reed Avenue, Kalamazoo, MI 49001, requesting a Special Use Permit to allow for an Adult Foster Care Facility in an "R-3B Multiple Family Residential District" as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01(b)(7), for property located at 24 College Street, Parcel #5240-00-072-0.

Chairman Hicks declared the public hearing for #SUP-06-10 open.

Ms. Christine Hilton, Planning Supervisor, provided a summary of the petitioners request for a Special Use Permit to allow for an Adult Foster Care Group Home Facility. Stated property is located at 24

College Street which is on the east side of College Street, mid-block between Glenwood and Calhoun Streets and is .5 acres in size with 165 ft. frontage on College Street. Noted this property has been vacant for the past 10 years and that the use of this structure as a Adult Foster Care small group home will be harmonious and appropriate in appearance with the existing intended character of the general vicinity and will not change the essential character of the neighborhood and would be in accordance with the general objectives of the Cities Master Plan. Ms. Hilton stated the request meets the general standards listed in Chapter 1290.04 as outlined in the staff report and that staff recommends that the Planning Commission recommend to the City Commission approval with the four (4) conditions outlined in the staff report.

Ms. Shirley Knapp property owner was present to speak and provided a document regarding her statement to the Planning Commission regarding her request. (See attachment A)

Mr. David Nielson, NPC #4 Chairperson stated he has concerns, and that the NPC conversations have been the committee only and not as an NPC as a whole. Said a Special Use Permit is not needed if only licensed for up to six persons and that the Knapp's are wanting up to 10 persons. Noted their area is saturated already with group homes and have all they can accommodate. Mr. Nielson stated he has three concerns: 1) The address, as it is a difficult neighborhood with drug activity reported and might not be best environment for the elderly needing care. 2) Having absentee owners is also a concern and that code issues result with properties that do not have owners that live in the community and do not want to add to them. 3) The zoning is a concern and guidelines need to be adhered to and regulations are needed.

Mr. Nielson stated he had conversations with the City of Kalamazoo regarding other properties that the Knapp's own and their neighborhood issues. Noted before approving they should do their due diligence and speak with Community Development in Kalamazoo with the blight persons before approving. Noted the NPC cannot support as they have not met regarding this appeal.

Mr. Mark Jones, 46 E. Avenue, N., came forward to speak in opposition as there are a large number of group homes in the north-side and that the large homes in the area have a life span of about 10 years and that the conditions of the property are deteriorating and have yet one more that may deteriorate as they become abandoned by owners and then no one will want. Mr. Jones also questions the nearness of the home to the school and youths and may become targets from them as they are vulnerable.

*Commissioner Hicks asked if there was anyone else wishing to speak either for or against this petition, seeing none the public hearing was closed.*

**A MOTION WAS MADE BY COMMISSIONER BARKER, SUPPORTED BY COMMISSIONER MORRIS, TO APPROVE THE REQUEST FOR A SPECIAL USE PERMIT FOR AN ADULT FOSTER CARE FACILITY LOCATED AT 24 COLLEGE STREET AS THE REQUEST MEETS THE STANDARDS IN CH 1290.04 BASIS FOR DETERMINATION AS OUTLINED IN THE STAFF REPORT AND TO INCORPORATE THE FOUR(4) CONDITIONS OUTLINED IN THE STAFF REPORT.**

**Discussion:**

Commissioner John Godfrey asked Mr. Nielson to provide some information regarding NPC #4 area and other group homes within the area and if there were any others on College Street. Mr. Nielson stated no, he was not aware of any.

Commissioner Godfrey noted that the information that Mr. Nielson has regarding the properties the petitioner has in Kalamazoo, might need to be provided to the Planning Commission. Mr. Nielson said it was a phone conversation and not sure if it is appropriate for him to share, that the follow-up history should be done with the Planning Department of Kalamazoo.

Eileen Wicklund, City Attorney stated that Mr. Nielson is not precluded from sharing the hearsay information.

Commissioner Barker stated that the subject has been broached and Mr. Nielson should share as his information has produced a cloud on the petition.

Mr. Nielson stated that Planning and Community Development Department in Kalamazoo said the applicants registered properties is an issue in their area and one had been sent to Dangerous Buildings and that notices have not been responded to in the Bronson Hospital area. Said it was a pattern for properties to be not taken care of until they are needed to be addressed and that he has the phone number to share for us to call if we wished. Mr. Nielson stated his duty as NPC Chairperson; he has spoken to Mrs. Knapp and she does have a plan, but there is a history there and should be addressed.

Mrs. Knapp stated they had received a call from Kalamazoo and noted that Bronson Hospital area is in a flood plain and that that property needs to be razed and that they plan to do so. Noted it should have been taken care of years ago, but had held onto it as an investment only; that it was next to Bronson Hospital and is not beneficial and will be demolished.

Mrs. Knapp stated she had spoken to persons within the 300 ft. area and that there are only 6 single family resident owned properties; that four are in support (gave paper to Commissioner Hicks). Noted that the Kalamazoo area properties are not in good shape as they are problem areas and that their South Haven rental properties are good in that area.

Commissioner Frantz stated that because of troubling information has been provided and she thinks little of it for basis of determination A-H the issues are insubstantial and that in her opinion we should count on the City's Code Compliance to ensure it is maintained per ordinance requirements.

Commissioner Stetler stated he drove by the property and can see it is far from occupancy and that it needs to be brought up to code and would then bring a huge change to this property.

Commissioner Barker stated he went to this property and spoke with the petitioner and was surprised to see the effort they have put forth to bring this property up to code and noted that the property seems to fit the use. States he concurs with the staff report and will be in support; that he has confidence in the Cities Code and State inspectors to inspect and ensure it meets code.

Mayor Baldwin stated that this property was adjacent to doctors' offices and other businesses and if there are other group homes in the immediate area.

Ms. Christine Hilton said the other group homes are not within two blocks of the area.

Commissioner Barker asked if the State or City have a limit on the nearness of each other. Ms. Hilton stated there is no limit.

Commissioner Frantz stated she is in support; and that the NPC has not responded and feels an official response should be heard.

Mayor Baldwin stated the NPC will meet and will be addressed at the City Commission. Stated she does not feel there is a requirement that they meet with the NPC first and do not feel they need to be postponed.

Commissioner Godfrey asked Ms. Knapp regarding the population and/or type of residences they are seeking. Mrs. Knapp stated she had lost her mother and had not been happy with the facility where she was and she wants the elderly to have loving tender care for them and not just a financial gain. Noted they want to keep this property because of the fond family memories that they have when her husband's family lived there.

Commissioner Godfrey asked in addition to the 10 residents, how many employees would there be and is there adequate parking. Mrs. Knapp stated there would be one live in staff that is required and yes the parking meets the requirements.

Mayor Baldwin asked that it be noted that the person Ms. Knapp mentioned as a renter of hers was Ms. Susan Buckle and not Baldwin.

Commissioner Hicks asked if there was any further discussion, seeing none, asked for a vote.

**A ROLL CALL VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.**

**7. Old Business:**

- A. Special Use Permit (#S-05-10): Petition from Ms. Janet Clemens, 48 E. Bidwell, Battle Creek, MI 49015, requesting a Special Use Permit to allow a vacant lot to be used as a Neighborhood Park in an "R-2 Two Family Residential District" as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01(b)(14), for property located on E. Bidwell Street, Parcel #8140-00-027-0.**

Commissioner Morris asked if the petitioner would come forward to speak.

Ms. Clemens stated they have been working on this vacant lot for years and want it for a place for families to meet and neighbors to use. Stated the Foundation is providing some funds and that the neighbors are doing the work themselves.

Ms. Christine Hilton stated the NPC #3 have provided a letter of approval with two conditions outlined; that it be fenced, which is addressed in the staff report and that it be locked at night. Said the Planning Commission can add that it be locked at night in their motion.

Mr. Bill Phillips, President & CEO of Neighborhoods Incorporated, owner of the property came forward to speak and stated they are in favor of the park and are involved in similar areas throughout the city and support the neighbors with their efforts and they will continue to involve the neighbors in other areas. Stated they have been working with Ms. Clemens on this park and that the cities support will be appreciated.

Commissioner Barker stated he was not present at the prior meeting and noted this is the second park to come before them and they need to set standards. Noted the diagram of the walkway appears to be close to the house on the corner which is engulfed by the park. Said he does not want to appear negative; but if he were living there he would be concerned with the sidewalk and fence. Feels they may need to look at each park as a case by case as they may have different issues needing addressed and feel the lighting may also be a possible issue. They need to ensure it is not a nuisance to adjacent property owners.

Commissioner Morris asked Ms. Clemens if she would consider moving the sidewalk. Ms. Clemens stated; yes they would consider moving the sidewalk.

Commissioner Stetler stated that lighting is an issue and is concerned it may be used in a commercial setting. Ms. Clemens stated they will only be using what is allowed by city code.

*Commissioner Hicks asked if there was anyone else wishing to speak either for or against this petition, seeing none the public hearing was closed.*

**A MOTION WAS MADE BY COMMISSIONER MORRIS, SUPPORTED BY COMMISSIONER BARKER TO APPROVE THE REQUEST FOR A SPECIAL USE PERMIT FOR A NEIGHBORHOOD PARK LOCATED ON E. BIDWELL STREET (PARCEL #8140-00-027-0) BASED ON THE FINDINGS IN THE STAFF REPORT AND TO ADOPT THE ADDITIONAL CONDITION THAT THE SIDEWALK BE MOVED AWAY FROM THE ADJACENT RESIDENTIAL PROPERTY.**

**Discussion:**

Commissioner Godfrey had a concern regarding commercial lighting in residential neighborhood; that the plan needs to stipulate the lighting needed to be a good neighbor to nearby residents.

Commissioner Morris noted that the petitioner stated they would be using 40 watt bulbs for lighting. Ms. Clemens stated that was correct.

Mayor Baldwin stated the lighting was not an issue as the park will be closed at night.

**AMENDMENT TO THE MOTION WAS MADE BY COMMISSIONER STETLER, SUPPORTED BY COMMISSIONER BARKER TO APPROVE THE REQUEST FOR A SPECIAL USE PERMIT FOR A NEIGHBORHOOD PARK LOCATED ON E. BIDWELL STREET (PARCEL #8140-00-027-0) BASED ON THE FINDINGS IN THE STAFF REPORT AND ADOPT THE FOLLOWING CONDITIONS: 1) THE SIDEWALK AND GAZEBO BE MOVED AWAY FROM THE ADJACENT RESIDENTIAL PROPERTY TO THE REAR; 2) HOURS OF OPERATION BE FROM DAWN TO DUSK WITH NO LIGHTS; 3) FENCING ON THE BOUNDARIES OF THE PARK TO BE INSTALLED AND BE LOCKED AND GATED FOR THE EVENING HOURS.**

Commissioner Hicks as if there were any further discussion, seeing none asked for a vote.

**A ROLL CALL VOTE WAS TAKEN ON AMENDED MOTION: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.**

**A ROLL CALL VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.**

Commissioner Godfrey wanted to commend Ms. Clemens for the work and care she has done in her neighborhood and that he applauds her.

**Note: Items B & C were removed from agenda and will be discussed at the next meeting due to insufficient time to discuss thoroughly.**

A. Master Plan Update

B. Discussion regarding residential zoning, request by Commissioner Stetler

8. New Business:

A. Discussion regarding Medical Marijuana Ordinance:

Ms. Susan Bedsole stated this will be an initial discussion regarding the Medical Marijuana Ordinance; handed out a proposed MMA Regulations (see attached) for City Commission and Planning Commission document for review and ask that the Planning Commission provide feedback to the City Commission at the December 7<sup>th</sup> meeting. Noted there will be two parts; License and Zoning. Stated the introduction to the City Commission would be December 7<sup>th</sup> and Adoption be presented to the City Commission on December 21<sup>st</sup>.

Ms. Bedsole stated that qualifying patients under MMA, limited to one or two persons in a residence, can grow/consume etc. from their own primary residence in any zoning district within the city.

Commissioner Godfrey asked regarding children in the home. Ms. Bedsole stated more than two patients are a qualifying household; referenced document handed out.

Commissioner Stetler asked how it would relate to a Planned Unit Development. Ms. Hilton stated a PUD allows for mixed uses and two caregiver operations would not qualify in a PUD zone; it would be under the discretion of the Planning Commission approval for that PUD.

Commissioner Frantz asked what if a qualifying patient is living in a defacto home and lives under a bridge; what then? Ms. Eileen Wicklund stated they would need a closed locked facility and would not be allowed to smoke in public per State Statute and would comply with terms of State Law.

Commissioner Preston Hicks opened the meeting for public comment.

There were 20 persons that came forward to speak and voiced some of their concerns which are as follows:

- Needing a place to go away from their home and children to medicate
- Need of a compassion club for location to medicate
- Need of a compassion club to know what they consume is safe
- Need of a compassion club to learn how to medicate safely
- Concern if caregiver cannot supply where do they go to medicate and be safe

- When a caregiver has extra why not give it to those that need it at a compassion club
- Want a compassion club to be able to relax, medicate and be away from violence

Ms. Wicklund stated the Planning Commission is not to determine what the licensing ordinance states; that they only will look at the ordinance before it goes to the City Commission and that the City Commission will be making the final decision.

Commission Godfrey agrees with council and they need to give due diligence and listen to the people to find a way to allow relief outside of their home and bring some closure.

Ms. Christine Hilton stated the meeting dates again for the zoning amendments for the MMA which are as follows; Ordinance Introduction on December 7, 2010 and Ordinance Adoption on December 21, 2010.

9. **Comments by the Public:** None

10. **Comments by the Staff and Commission Members:**

Commissioner Spranger noted that at last months meeting the Special Use Permit for the Neighborhood Park was tabled because of needing a request of input from the Neighborhood Planning Council and questioned what role they play regarding petition requests.

Commissioner Hicks stated his understanding is that NPC's are advisory purposes only.

Mayor Baldwin stated the NPC's have no authority and need to recognize their role and should not delay the process; that the number of persons who are members may not represent a broad scope of their neighborhood.

Commissioner Frantz said she appreciates the applicant being addressed tonight by the Mayor. She has a concern when a recommendation is made by the Planning Commission and they do not have all the information. Stated they do not want to set a precedent to make recommendations and have the City Commission overturn their decision.

Commissioner Spranger stated he was not sure why one petitioner was postponed because of not attending the NPC meeting and another not; feels he might need additional training.

Commissioner Godfrey stated the Neighborhood Planning Council name says it all; they are to help with planning in their neighborhood and to be used as a tool. Want to reinforce the NPC's and feel it is important we get their input.

Commissioner Stetler asked how many people attend the Neighborhood Planning Councils and are giving a voice for their neighborhood.

Mrs. Susan Bedsole stated that each NPC have a quorum, most have 10 persons that needs to be met; and some have been meeting for past few years that have not made quorum.

Ms. Wicklund stated the Planning Commission may ask the petitioner if they had attended their Neighborhood Planning Council meeting or why they had not attended.

Mrs. Bedsole stated we could ask the NPC to provide the number of members that vote for or against a petition request when it is shared with them at their meeting.

Commissioner Hicks asked if the vacant seat for the Planning Commission was to be filled. Mayor Baldwin stated yes, there are several seats on several boards that they are now looking to fill.

Commissioner Frantz stated regarding the basis of determination; to look at briefly as a refresher. Ms. Chris Hilton stated information outlined in staff report and decision tree outline should be helpful. Commissioner Frantz stated she agreed.

Commissioner Barker thanked Commissioner Spranger for his comment regarding the NPC's and number of members voting. Stated the training manuals provided are helpful. Stated regarding the special meeting for the MMA; the chart helps with some of his questions and noted the chairperson did a good job.

Ms. Susan Bedsole stated they have direction based on comments from the workshop and asked the commissioners to let her know if there were any other concerns.

Commissioner Hicks stated the subject of a Compassion Club made an impression as it kept coming up.

Ms. Wicklund stated that Michigan State Law does not address over supply and they need to abide by the State Law.

Commissioner Hicks stated someone not being able to take care of their needs is a concern.

Mrs. Bedsole stated the caregiver should be able to meet their needs and do not want it in residential homes. Stated she did not understand that they could not get it, as the caregivers should be providing what they need.

Ms. Wicklund stated compassion clubs should direct persons to caregivers and she did not understand their issues. Noted that 2.5 oz. is the amount allowed on a person.

Mayor Baldwin noted that she heard tonight, was a number of persons not wanting to medicate in front of their children.

Ms. Bedsole stated in the ordinance under Compassion Club they could change and remove "use" as a limitation.

Commissioner Barker stated they need legislative intent, behavior, concerns, licensing requirement, enforcement, etc.

Ms. Bedsole stated by the end of the week they will get the licensing ordinance done and put it in context for everyone.

Commissioner Barker said it would need to be determined if there would be any cost factors to regulate and would it be considered to be revenue neutral.



**11. Adjournment:**

The meeting adjourned at 7:00 P.M.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christine M. Hilton".

Christine M. Hilton, AICP  
Executive Secretary  
Planning Commission